

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

CURTIS THORNTON, II,

Plaintiff,

v.

Case Number 07-12477-BC
Honorable Thomas L. Ludington

UNITED COLLECTION SERVICES, L.L.C.,

Defendant.

ORDER DIRECTING PLAINTIFF TO PROVIDE SUPPLEMENTAL BRIEFING

On June 8, 2007, Plaintiff Curtis Thornton, II filed suit against Defendant United Collection Services, L.L.C., alleging violations of the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §§ 1692 *et seq.*, and Mich. Comp. Laws §§ 445.251 *et seq.* On June 25, 2007, Defendant filed an answer. On July 10, 2007, under an order of reference, Magistrate Judge Charles E. Binder struck the answer because it was not filed by a licensed attorney as required, like a corporation, for a limited liability company.

On September 6, 2007, Plaintiff requested entry of default, and the Clerk of Court did so on that same date. On November 19, 2007, the magistrate judge ordered Plaintiff to show cause why the case should not be dismissed for failure to prosecute. On November 28, 2007, Plaintiff filed a motion for default judgment. Defendant has not filed a response. The following day, the magistrate judge issued a report and recommendation, reciting some of the above factual information and recommending the entry of default judgment. No party objected to the magistrate judge's report and recommendation.

The docket reflects service of the complaint on Defendant's registered agent. The docket

further reflects service of the order to strike, Plaintiff's request for entry of default, and Plaintiff's motion for default judgment, via first class mail, on that same registered agent. The Clerk's entry of default contains a proof of service that states only that the default was sent via first class mail to "parties and/or counsel of record;" Defendant has not entered an appearance. The magistrate judge's report and recommendation was served via first class mail to a box office box in Caro, Michigan on Defendant.

In his motion for default judgment, Plaintiff requests an award of \$1,000 and attorney fees and costs of \$3,000. Apart from citing to 15 U.S.C. § 1692k, Plaintiff provides no basis for these figures. He does not substantiate any actual damage sustained by him due to Defendant's alleged non-compliance with the FDCPA, nor does he describe "the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, and the extent to which such noncompliance was intentional." 15 U.S.C. § 1692k(a)(1) & (b)(1). He provides no rationale for the Court to award him \$1,000, the greatest amount of statutory damages permitted under 15 U.S.C. § 1692k(a)(2)(A). Further, despite his assertion in his complaint that his counsel's hourly rate is \$350, he does not substantiate his request for attorney fees and costs of \$3,000. *See* 15 U.S.C. § 1692k(a)(3). Finally, Plaintiff's motion does include a citation to Federal Rule of Civil Procedure 55(b), but the entirety of his supporting brief is a quotation of Mich. Ct. R. 2.603(B).

Without proof of service of the entry of default and without some substantiated basis for the damages award and attorney fees and costs sought by Plaintiff, the Court will not grant Plaintiff's motion for default judgment at this juncture. Rather, the Court will direct him to provide supplemental briefing on the following issues: (1) the status of service on Defendant of the entry of default and (2) substantiation of the damages award and attorney fees and costs that Plaintiff

requests.

Accordingly, it is **ORDERED** that Plaintiff shall provide supplemental briefing, on or before **January 8, 2008**, on the following issues: (1) the status of service on Defendant of the entry of default and (2) substantiation of the damages award and attorney fees and costs that Plaintiff requests.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: December 19, 2007

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on December 19, 2007.

s/Tracy A. Jacobs
TRACY A. JACOBS